

REMARKS

Applicants have cancelled claims 22 and 26, without prejudice or disclaimer of their subject matter; amended claim 7 to more appropriately define the present invention, and added new claims 33-36 to protect additional aspects of the present invention. Upon entry of this Amendment, claims 1-21, 23-25, and 27-36 remain pending and under examination.

Regarding the Office Action:

In the Office Action, the Examiner rejected claims 7-32 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.¹

Amendments to the Claims:

The amendment to claim 7 finds support in the specification at col. 8, lines 37-39 of U.S. Patent No. 6,329,275. This amendment clarifies the amount of H with respect to the amount of the first element, consistent with the claimed amounts of C, O, and N. New claims 33-36 find support in the specification, at Table 12 in col. 21, of U.S. Patent No. 6,329,275.

Rejection of Claims 7-32 under 35 U.S.C. § 112, first paragraph:

The Examiner rejected claims 7-32 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants disagree with the Examiner's allegations.

First, regarding the 35 U.S.C. § 112, first paragraph, rejection of claims 7-32, the Examiner alleged that "[c]laim 7 recites the limitation '0.01 at ppm to 3 at% of C with respect to

¹ The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

the amount of the first element'. This is not described in the specification. The specification describes 3 at ppm to 3 at% of C in column 7, line 29" (Office Action, p. 2).

In response, Applicants point out that adequate support exists for "0.01 at ppm to 3 at% of C with respect to the amount of the first element" in claim 7, particularly at col. 4, ll. 54-56, col. 6, ll. 12-15, and col. 8, ll. 36-39 of U.S. Patent No. 6,329,275.

Second, the Examiner also alleged that

[c]laim 23 recites the limitation '0.01 at ppm to 7.5 at% of H with respect to the amount of the first element'. The specification describes '500 wt ppm or below' in column 8, lines 1 - 3, which is the passage that the Applicant identifies as supplying support in the specification for the subject matter of claim 23. This passage does not supply adequate support for this claim limitation. The claim is broader than what is disclosed in the specification. (Office Action, pp. 2-3)

In response, Applicants point out that adequate support exists for "0.01 at ppm to 7.5 at% of H with respect to the amount of the first element" in claim 23, particularly at col. 7, ll. 48-54, and at col. 7, ll. 13-41 of U.S. Patent No. 6,329,275.

Accordingly, the 35 U.S.C. § 112, 1st paragraph, rejection is improper for the reasons presented. Applicants request withdrawal of the rejection of claims 7-32, and an indication that they are now allowed.

Conclusion:

In view of the foregoing, Applicants request reconsideration of the application and withdrawal of the rejection. Pending claims 7-22, 23-25, and 27-36 are in condition for allowance, in addition to allowed claims 1-6, and Applicants request a favorable action.

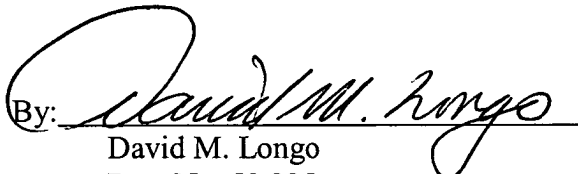
If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 29, 2005

By: 
David M. Longo
Reg. No. 53,235

/direct telephone: (202) 408-4489/